

relating to the status of the prospective provider or supplier subsequent to the initial determination; and

(c) Makes a reconsidered determination, affirming or modifying the initial determination and the findings on which it was based.

**§ 498.25 Notice and effect of reconsidered determination.**

(a) *Notice.* (1) CMS mails notice of a reconsidered determination to the affected party.

(2) The notice gives the reasons for the determination.

(3) If the determination is adverse, the notice specifies the conditions or requirements of law or regulations that the affected party fails to meet, and informs the party of its right to a hearing.

(b) *Effect.* A reconsidered determination is binding unless—

(1) CMS or the OIG, as appropriate, further revises the revised determination; or

(2) The revised determination is reversed or modified by a hearing decision.

**Subpart C—Reopening of Initial or Reconsidered Determinations**

**§ 498.30 Limitation on reopening.**

An initial or reconsidered determination that a prospective provider is a provider or that a hospital qualifies to elect to claim payment for all emergency services furnished in a calendar year may not be reopened. CMS or the OIG, as appropriate, may on its own initiative, reopen any other initial or reconsidered determination, within 12 months after the date of notice of the initial determination.

**§ 498.32 Notice and effect of reopening and revision.**

(a) *Notice.* (1) CMS or the OIG, as appropriate, gives the affected party notice of reopening and of any revision of the reopened determination.

(2) The notice of revised determination states the basis or reason for the revised determination.

(3) If the determination is that a supplier or prospective supplier does not meet the conditions for coverage of its services, the notice specifies the condi-

tions with respect to which the affected party fails to meet the requirements of law and regulations, and informs the party of its right to a hearing.

(b) *Effect.* A revised determination is binding unless

(1) The affected party requests a hearing before an ALJ; or

(2) CMS or the OIG further revises the revised determination.

**Subpart D—Hearings**

**§ 498.40 Request for hearing.**

(a) *Manner and timing of request.* (1) An affected party entitled to a hearing under § 498.5 may file a request for a hearing with the ALJ office identified in the determination letter.

(2) The affected party or its legal representative or other authorized official must file the request in writing within 60 days from receipt of the notice of initial, reconsidered, or revised determination unless that period is extended in accordance with paragraph (c) of this section. (Presumed date of receipt is determined in accordance with § 498.22(b)(3)).

(b) *Content of request for hearing.* The request for hearing must—

(1) Identify the specific issues, and the findings of fact and conclusions of law with which the affected party disagrees; and

(2) Specify the basis for contending that the findings and conclusions are incorrect.

(c) *Extension of time for filing a request for hearing.* If the request was not filed within 60 days—

(1) The affected party or its legal representative or other authorized official may file with the ALJ a written request for extension of time stating the reasons why the request was not filed timely.

(2) For good cause shown, the ALJ may extend the time for filing the request for hearing.

[52 FR 22446, June 12, 1987, as amended at 73 FR 36462, June 27, 2008]

**§ 498.42 Parties to the hearing.**

The parties to the hearing are the affected party and CMS or the OIG, as appropriate.